

SENATE BILL 685

Q8, Q2

(0lr2255)

ENROLLED BILL

— Budget and Taxation/Ways and Means —

Introduced by **Senators DeGrange, Brinkley, Currie, Edwards, Kasemeyer, King, Kramer, McFadden, Miller, Munson, Peters, and Stoltzfus**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Personal Property Tax—Heavy Equipment~~

3 Heavy Equipment Tax Reform Act of 2010

4 FOR the purpose of ~~authorizing a county or municipal corporation to impose a tax, not~~
5 ~~exceeding a certain amount,~~ imposing a tax at a certain rate on the gross
6 receipts from the short-term lease or rental of certain heavy equipment
7 property under certain circumstances; requiring a person who owns a business
8 with gross receipts subject to the tax to collect and remit the tax in a certain
9 manner by a certain day each quarter; requiring a person who owns a business
10 with gross receipts subject to a certain tax to submit a certain report to the
11 Department of Assessments and Taxation and a certain list to the county or
12 municipal corporation where the business is located; requiring a county or
13 municipal corporation to calculate the difference between certain amounts and
14 to submit a certain statement and bill to a business with certain gross receipts;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 providing that certain heavy equipment property is not subject to property tax;
 2 providing for a delayed effective date; defining certain terms; providing for the
 3 application of this Act; and generally relating to the taxation of certain heavy
 4 equipment property.

5 BY adding to
 6 Article 24 – Political Subdivisions – Miscellaneous Provisions
 7 Section 9–609
 8 Annotated Code of Maryland
 9 (2005 Replacement Volume and 2009 Supplement)

10 BY adding to
 11 Article – Tax – Property
 12 Section 7–243
 13 Annotated Code of Maryland
 14 (2007 Replacement Volume and 2009 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

18 **9–609.**

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 20 MEANINGS INDICATED.

21 (2) “GROSS RECEIPTS SHORTAGE” MEANS THE AMOUNT BY
 22 WHICH THE PROPERTY TAX CALCULATED UNDER SUBSECTION (D)(2) OF THIS
 23 SECTION THAT WOULD HAVE BEEN DUE EXCEEDS THE TOTAL GROSS RECEIPTS
 24 TAX REMITTED UNDER SUBSECTION (C) OF THIS SECTION.

25 (3) “GROSS RECEIPTS SURPLUS” MEANS THE AMOUNT BY WHICH
 26 THE TOTAL GROSS RECEIPTS TAX REMITTED UNDER SUBSECTION (C) OF THIS
 27 SECTION EXCEEDS THE AMOUNT OF PROPERTY TAX CALCULATED UNDER
 28 SUBSECTION (D)(2) OF THIS SECTION THAT WOULD HAVE BEEN DUE.

29 (4) (I) “HEAVY EQUIPMENT PROPERTY” MEANS
 30 CONSTRUCTION, EARTHMOVING, OR INDUSTRIAL EQUIPMENT THAT IS MOBILE
 31 INCLUDING ANY ATTACHMENT FOR THE HEAVY EQUIPMENT.

32 (II) “HEAVY EQUIPMENT PROPERTY” INCLUDES:

33 1. A SELF-PROPELLED VEHICLE THAT IS NOT
 34 DESIGNED TO BE DRIVEN ON A HIGHWAY; OR

1 2. INDUSTRIAL ELECTRICAL GENERATION
2 EQUIPMENT, INDUSTRIAL LIFT EQUIPMENT, INDUSTRIAL MATERIAL HANDLING
3 EQUIPMENT, OR OTHER SIMILAR INDUSTRIAL EQUIPMENT.

4 ~~(3)~~ (5) “SHORT-TERM LEASE OR RENTAL” MEANS THE LEASE
5 OR RENTAL OF HEAVY EQUIPMENT PROPERTY FOR A PERIOD OF 365 DAYS OR
6 LESS.

7 (B) (1) ~~THE GOVERNING BODY OF A COUNTY OR MUNICIPAL~~
8 ~~CORPORATION MAY IMPOSE, BY ORDINANCE OR RESOLUTION, A TAX AT A RATE~~
9 ~~NOT TO EXCEED 2% ON THE GROSS RECEIPTS FROM THE SHORT-TERM LEASE~~
10 ~~OR RENTAL OF HEAVY EQUIPMENT PROPERTY BY A PERSON WHOSE PRINCIPAL~~
11 ~~BUSINESS IS THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT~~
12 ~~PROPERTY AT RETAIL. THERE IS A TAX AT A RATE OF 2% ON THE GROSS~~
13 ~~RECEIPTS FROM THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT~~
14 ~~PROPERTY BY A PERSON WHOSE PRINCIPAL BUSINESS IS THE SHORT-TERM~~
15 ~~LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY AT RETAIL.~~

16 (2) ~~THE GROSS RECEIPTS ARE SUBJECT TO THE TAX UNDER~~
17 ~~PARAGRAPH (1) OF THIS SUBSECTION IF THE PLACE OF BUSINESS FROM WHICH~~
18 ~~THE HEAVY EQUIPMENT PROPERTY IS DELIVERED IS LOCATED IN THE COUNTY~~
19 ~~OR MUNICIPAL CORPORATION. THE TAX IMPOSED UNDER PARAGRAPH (1) OF~~
20 ~~THIS SUBSECTION DOES NOT APPLY TO A BUSINESS LOCATED IN A COUNTY OR~~
21 ~~MUNICIPAL CORPORATION THAT DOES NOT IMPOSE A PERSONAL PROPERTY~~
22 ~~TAX.~~

23 (3) A PERSON IS IN THE PRINCIPAL BUSINESS OF SHORT-TERM
24 LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY IF:

25 (I) THE LARGEST SEGMENT OF TOTAL RENTAL RECEIPTS
26 OF THE BUSINESS IS FROM THE SHORT-TERM LEASE OR RENTAL OF HEAVY
27 EQUIPMENT PROPERTY; AND

28 (II) THE BUSINESS IS DESCRIBED UNDER CODE 532412 OF
29 THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM AS PUBLISHED BY
30 THE UNITED STATES CENSUS BUREAU.

31 ~~(4) IF A COUNTY IMPOSES THE TAX AUTHORIZED UNDER THIS~~
32 ~~SECTION, THE RATE IMPOSED BY A MUNICIPALITY IN THE COUNTY MAY NOT~~
33 ~~EXCEED THE RATE SO THAT, WHEN COMBINED WITH THE COUNTY TAX, THE~~
34 ~~TOTAL TAX RATE WILL EXCEED 2%.~~

1 (C) (1) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS
2 SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL COLLECT
3 THE TAX FROM THE RENTAL CUSTOMER AND REMIT THE TAX ~~TO THE COUNTY~~
4 ~~OR MUNICIPAL CORPORATION~~ AS PROVIDED IN THIS SUBSECTION.

5 (2) THE TAX IS PAYABLE QUARTERLY AND DUE BY THE LAST DAY
6 OF THE MONTH AFTER THE END OF THE QUARTER.

7 (3) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS
8 SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL REMIT
9 THE TAX COLLECTED TO:

10 (I) THE COUNTY IN WHICH THE BUSINESS IS LOCATED, IF
11 THAT LOCATION IS NOT WITHIN A MUNICIPAL CORPORATION; OR

12 (II) THE COUNTY AND MUNICIPAL CORPORATION IN WHICH
13 THE BUSINESS IS LOCATED IN PROPORTION TO THE PERSONAL PROPERTY TAX
14 RATE OF THE COUNTY AND MUNICIPAL CORPORATION, IF THAT LOCATION IS
15 WITHIN A MUNICIPAL CORPORATION.

16 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND
17 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE GROSS RECEIPTS TAX
18 IMPOSED UNDER THIS SECTION SHALL BE ADMINISTERED AND COLLECTIBLE
19 ACCORDING TO THE LAWS OTHERWISE APPLICABLE TO THE PERSONAL
20 PROPERTY TAX UNDER THE TAX – PROPERTY ARTICLE.

21 (D) (1) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS
22 SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL SUBMIT:

23 (I) TO THE DEPARTMENT OF ASSESSMENTS AND TAXATION
24 A REPORT ON PERSONAL PROPERTY AS REQUIRED UNDER § 11-101 OF THE TAX
25 – PROPERTY ARTICLE; AND

26 (II) TO THE COUNTY OR MUNICIPAL CORPORATION WHERE
27 THE HEAVY EQUIPMENT RENTAL BUSINESS IS LOCATED A LIST OF ALL
28 PERSONAL PROPERTY, INCLUDING THE ORIGINAL COST AND DATE OF
29 ACQUISITION OF THE PROPERTY, THAT:

30 1. IS SUBJECT TO THE GROSS RECEIPTS TAX UNDER
31 THIS SECTION; AND

32 2. IS EXEMPT FROM THE PROPERTY TAX UNDER §
33 7-243 OF THE TAX – PROPERTY ARTICLE.

1 7-243.

2 (A) IN THIS SECTION, "HEAVY EQUIPMENT PROPERTY" HAS THE
3 MEANING STATED IN ARTICLE 24, § 9-609 OF THE CODE.

4 (B) HEAVY EQUIPMENT PROPERTY IS NOT SUBJECT TO THE PROPERTY
5 TAX IF ~~THE OWNER HAS GROSS RECEIPTS FROM THE SHORT TERM LEASE OR~~
6 ~~RENTAL OF THE HEAVY EQUIPMENT PROPERTY THAT WOULD BE SUBJECT TO~~
7 ~~THE GROSS RECEIPTS TAX AUTHORIZED UNDER ARTICLE 24, § 9-609 OF THE~~
8 ~~CODE, WHETHER OR NOT THE PLACE OF BUSINESS FROM WHICH THE HEAVY~~
9 ~~EQUIPMENT PROPERTY IS DELIVERED IS LOCATED IN A COUNTY OR MUNICIPAL~~
10 ~~CORPORATION THAT IMPOSES THE GROSS RECEIPTS TAX.~~

11 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
12 ~~July 1, 2011. THE PROPERTY IS SUBJECT TO THE GROSS RECEIPTS TAX IMPOSED~~
13 ~~UNDER ARTICLE 24, § 9-609 OF THE CODE.~~

14 SECTION 3. AND BE IT FURTHER ENACTED, That to create a transition
15 period that precludes both a duplication and an avoidance of tax:

16 (a) The initial period of application of Section 1 of this Act shall be the
17 6-month period from July 1, 2011, through December 31, 2011; and

18 (b) During the initial period of application, the following words have the
19 meanings indicated:

20 (1) "Gross receipts shortage" means the amount by which one-half of
21 the property tax, calculated under Article 24, § 9-609(d)(2) of the Code as enacted by
22 Section 1 of this Act, that would be due exceeds the total gross receipts tax remitted
23 under Article 24, § 9-609(c) of the Code as enacted by Section 1 of this Act.

24 (2) "Gross receipts surplus" means the amount by which the total
25 gross receipts tax remitted under Article 24, § 9-609(c) of the Code as enacted by
26 Section 1 of this Act exceeds one-half of the amount of property tax, calculated under
27 Article 24, § 9-609(d)(2) of Section 1 of the Code as enacted by this Act, that would be
28 due.

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 December 31, 2010. Sections 1 and 3 shall be applicable to the initial period of
31 application beginning on July 1, 2011, and to all calendar years beginning after
32 December 31, 2011. Section 2 of this Act shall be applicable to all taxable years
33 beginning after June 30, 2011.